# **EXHIBIT "E"**

### UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF ALABAMA **SOUTHERN DIVISION**

MARGARET TURNER WHETSTONE,	)	
Plaintiff,	)	CIVIL A CTION NUMBER
V.	)	CIVIL ACTION NUMBER:
	)	3:05-cv-01171-MEF-SRW
FRED'S INC., et al.	)	
Defendants.	)	
	ANSWER	

COME NOW the Defendant, Fred's Stores of Tennessee, Inc., and respond to the Plaintiff's Complaint as follows:

# FIRST DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

## SECOND DEFENSE

Defendant denies each and every material allegation of the Complaint and demands strict proof thereof.

# THIRD DEFENSE

Defendant pleads contributory negligence.

# **FOURTH DEFENSE**

Defendant pleads assumption of the risk.

## FIFTH DEFENSE

Defendant contests damages.

# SIXTH DEFENSE

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Defendant pleads intervening, superseding cause.

## SEVENTH DEFENSE

Defendant pleads improper venue.

# EIGHTH DEFENSE

Defendant pleads open and obvious.

## NINTH DEFENSE

The defendant pleads lack of subject matter jurisdiction.

#### **TENTH DEFENSE**

The defendant pleads lack of personal jurisdiction.

s/ Elizabeth Jackson Elizabeth Jackson (JAC084) Attorney for the defendant, Fred's Pharmacy

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## **CERTIFICATE OF SERVICE**

I hereby certify that on December 19, 2005, I electronically filed the foregoing with the Clerk of Court using the CM/CEF system which I will send notification of such filing to all known counsel of record, including the foregoing.

Stewart G. Springer, Esq. 950 22nd Street North, Suite 638 Birmingham, Alabama 35203

s/ Elizabeth Jackson OF COUNSEL